

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

-v-

**CASE NO.: 2:11-CR-073
JUDGE SMITH**

**JUNIOR HERNANDEZ QUINTANA
aka PAUL ABRAHAM RODRIGUEZ
OROZCO,**

Defendant.

ORDER

This matter is before the Court on the Government's Motion to Dismiss the Indictment without Prejudice pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure (Doc 25). The Defendant does not oppose this Motion. For the reasons that follow, the Government's Motion is **GRANTED**.

The Defendant was arrested and charged with conspiracy to distribute heroin in excess of 100 grams. At the time of his arrest, the Defendant told officers his name was Junior Hernandez Quintana and that his date of birth was August 23, 1989. This case was originally brought to the Court's attention on the Defendant's Motion to Bar Prosecution (Doc. 11). The Defendant now asserts that his real name is Paul Abraham Rodriguez-Orozco and that his date of birth is August 23, 1994, making him 16 years of age. The Government filed its response to Defendant's Motion on March 28, 2011, and submitted documentation to support charging the Defendant as an adult.

The Juvenile Justice and Delinquency Prevention Act governs this case and sets forth guidelines for this Court to follow in determining whether a juvenile is entitled to the protections of the Act. The Government bears the initial burden of proving Defendant's age and must offer *prima facie* evidence of Defendant's adult status. If the Government provides a *prima facie* case, then the burden shifts to the Defendant to produce evidence of Defendant's juvenile status. The Government may then rebut Defendant's evidence with additional information.

The Defendant has submitted documentation regarding his age, including a birth certificate. The Government has consulted with ICE agents to verify the accuracy of this information. Having verified that the Defendant is in fact Paul Abraham Rodriguez-Orozco and that his date of birth is August 23, 1994, the Defendant is a juvenile and the Government now seeks to dismiss the Indictment against him without prejudice. Any future charges against the Defendant may be brought by the state.

Considering the Defendant raised the issue that he is a juvenile and there being no objection to the Government's Motion to Dismiss, the Court hereby orders that this case be dismissed. Accordingly, having determined that the Defendant is a juvenile, he shall immediately be moved to the appropriate juvenile detention center.

The Clerk shall remove Documents 11, 12, 19-22, and 25 from this Court's pending motions list. The Clerk is instructed to dismiss the Indictment against this Defendant only. The case remains pending as to the co-defendants.

IT IS SO ORDERED.

/s/ George C. Smith
GEORGE C. SMITH, JUDGE
UNITED STATES DISTRICT COURT